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OFFICE OF PETITIONS

In re Application of :
Rhodes, et al. :
Application No. 09/400,492 : DECISION ON PETITION
Filed: September 21, 1999 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. AHP 98298-P4/ WYBI-0010// :
MNI-069CP
For: METHODS FOR TREATING
CARDIOVASCULAR DISORDERS

This is a decision on the petition filed September 16, 2005 (certificate of mailing date September 13, 2005), under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the prior-filed applications set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED** as moot for the reasons stated below.

37 CFR 1.78(a)(2)(ii) indicates that the time periods set forth therein do not apply if the later-filed application is: (1) an application for a design patent; (2) an application filed under 35 U.S.C. § 111(a) before November 29, 2000; or (3) a nonprovisional application which entered the national stage after compliance with 35 U.S.C. § 371 from an international application filed under 35 U.S.C. § 365 before November 29, 2000.

Since the instant nonprovisional application is an application filed under 35 U.S.C. § 111(a) prior to November 29, 2000, the provisions of 37 CFR 1.78(a)(3) for acceptance of a later claim for priority do not apply. Accordingly, the petition is dismissed as involving a moot issue.

In view of the above, the \$1,370.00 fee submitted for the petition under 37 CFR 1.78(a)(3) is unnecessary and will be credited to deposit account no. 23-3050.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Any inquiries concerning this decision may be directed to Petitions Attorney E. Shirene Willis at (571)272-3230.

The application is being referred to Technology Center Art Unit 1646 for further examination.



Frances Hicks

Lead Petitions Examiner

Office of Petitions

Office of the Deputy Commissioner
for Patent Examination Policy

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